

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **COMPLAINT**
JAWAD BHATTI,

Plaintiff(s),

-against-

UNITED STATES OF AMERICA,

Defendant(s).

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Plaintiff, JAWAD BHATTI, by his attorneys, WINGATE, RUSSOTTI, SHAPIRO & HALPERIN, as and for a Complaint against the Defendant, respectfully alleges, upon information and belief, as follows:

JURISDICTION

1. This action arises under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680. This Court is vested with jurisdiction pursuant to 28 U.S.C. § 1346(b).

PARTIES

2. At the time of the commencement of this action, Plaintiff JAWAD BHATTI, was a resident of the State of New York, County of Kings.

3. At all times mentioned herein, the UNITED STATES POSTAL SERVICE (“USPS”) is an agency of defendant UNITED STATES OF AMERICA.

4. At all times mentioned herein, GERALDO UPSHUR (“UPSHUR”) was a postal worker employed by the USPS and defendant UNITED STATES OF AMERICA.

AS AND FOR A FIRST CAUSE OF ACTION

5. On or about April 16, 2020, plaintiff presented a claim for injury and damages

pursuant to 28 U.S.C. § 2675(a) to the UNITED STATES POSTAL SERVICE.

6. Upon information and belief, the UNITED STATES POSTAL SERVICE issued a denial of plaintiff's claim on October 26, 2020.

7. At all times hereinafter mentioned, plaintiff, JAWAD BHATTI, was the operator of a 2015 Toyota automobile, registered in the State of New York bearing license plate number 7706508C.

8. At all times hereinafter mentioned, defendant UNITED STATES OF AMERICA was the owner of a USPS Mail Truck bearing license plate number 9999.

9. At all times hereinafter mentioned UPSHUR was the operator of the postal truck with the permission of the owner.

10. At all times hereinafter mentioned, UPSHUR was operating the postal truck in the course of his employment with defendant UNITED STATES OF AMERICA.

11. On April 25, 2018, 12th Avenue and West 22nd Street in the County of New York, was a public roadway in the State of New York.

12. On April 25, 2018, at approximately 8:00 p.m., the aforementioned truck owned by defendant UNITED STATES OF AMERICA and operated by UPSHUR came into contact with the aforementioned vehicle operated by plaintiff JAWAD BHATTI at the intersection of 12th Avenue and West 22nd Street in the County of New York, State of New York.

13. The aforesaid collision was caused by the negligence, carelessness, and recklessness of defendant UNITED STATES OF AMERICA and UPSHUR in the ownership, control, operation and maintenance of said truck in that, *inter alia*, they negligently and carelessly operated said vehicle at an excessive rate of speed for the conditions there and then existing; failed to operate said vehicle within the posted speed limits; failed to keep proper control of said

vehicle; failed to keep a proper distance from plaintiff's vehicle, failed to properly use signaling and safety devices; failed to keep a proper lookout under the circumstances then existing; failed to timely and properly apply brakes of the vehicle; failed to properly hire and train their employees in the operation of said vehicle, and failed to use reasonable care to avoid an accident.

14. By reason of the foregoing, plaintiff JAWAD BHATTI sustained personal injuries and damage to property, his vehicle.

15. The foregoing accident and the resulting injuries and damages to plaintiff JAWAD BHATTI, were caused solely by the carelessness, negligence, recklessness and culpable acts and conduct on the part of the defendant and without any negligence on the part of the plaintiff contributing thereto.

16. This action falls within one or more of the exceptions set forth in CPLR § 1602.

17. By reason of the foregoing, plaintiff JAWAD BHATTI, was severely injured and damaged, rendered sick, sore, lame and disabled, sustained severe nervous shock and mental anguish, great physical pain and emotional upset and loss of enjoyment of life, and plaintiff JAWAD BHATTI, will be permanently caused to suffer pain, inconvenience and other effects of such injuries and that plaintiff was caused to undergo surgical procedures to treat the injuries sustained in the accident; plaintiff incurred and in the future will necessarily incur further hospital and/or medical expenses in an effort to be cured of said injuries; and the plaintiff JAWAD BHATTI, will be unable to pursue his usual duties and activities with the same degree and efficiency as prior to this accident, all to his damage.

18. By reason of the foregoing, plaintiff JAWAD BHATTI, sustained property

damage to his vehicle for which he incurred and will continue to incur monetary expenses and costs associated with the repair and recovery of said vehicle and expenses and costs associated with his inability to utilize said vehicle.

19. That as a result of the foregoing, plaintiff JAWAD BHATTI, suffered a serious injury as defined by Section 5102(d) of the Insurance Law of the State of New York.

20. Plaintiff is a “covered person” as defined by Section 5102(j) of the Insurance Law of the State of New York.

21. At all times hereinafter mentioned, plaintiff JAWAD BHATTI, was wearing a seatbelt and was in compliance with the New York State Seat Belt Law.

22. In his claim filed with the USPS pursuant to 28 U.S.C. 2675(a) on April 16, 2020, plaintiff stated that the total monetary amount of his claim was \$5,009,000.00.

23. By reason of the above, plaintiff, JAWAD BHATTI, has sustained damages, both general and special and requests an award of money damages in the amount of Five Million and Nine Thousand Dollars (\$5,009,000.00)

WHEREFORE, plaintiff demands judgment on all causes of action against the Defendant UNITED STATES OF AMERICA, in the amount of Five Million and Nine Thousand Dollars (\$5,009,000.00), together with costs and disbursements of this action.

Dated: New York, New York
December 9, 2020

Yours, etc.,



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ATTORNEY'S VERIFICATION

NOAH KATZ, an attorney duly admitted to practice before the United States District Court Eastern District of New York, affirms the following to be true under the penalties of perjury:

I am an attorney at WINGATE RUSSOTTI SHAPIRO R HALPERIN, LLP, attorneys of record for Plaintiff JAWAD BHATTI. I have read the annexed VERIFIED COMPLAINT and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because Plaintiff(s) is/are not presently in the county wherein I maintain my offices.

DATED: New York, New York
 December 9, 2020



NOAH KATZ, ESQ.